

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Iris Castillo, §
§
Plaintiff, §
§
v. §
§
HHS Environmental Services, LLC, §
§
Defendant. §

CASE NO.

PLAINTIFF'S ORIGINAL COMPLAINT

INTRODUCTION

1. Plaintiff Iris Castillo worked performing cleaning tasks for Defendant HHS Environmental Services, LLC (“HHS”) at the West Houston Medical Center, from approximately June 2019 to August 2020. On or around July 4, 2020, Plaintiff suffered an injury to her shoulder in a car accident and informed her supervisor that she would need to take time off to receive treatment and recover. On or around August 4, 2020, shortly before she was scheduled to return to work, Defendant HHS terminated Plaintiff’s employment. Plaintiff brings this action to recover damages for Defendant’s violations of her rights under the Family and Medical Leave Act (“FMLA”), 29 U.S.C. § 2601 et seq., plus costs and attorney’s fees as provided by law.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 (federal question) and 29 U.S.C. § 2617(a)(2) (FMLA).

3. The Court is empowered to issue a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202.

4. Venue is proper in this district pursuant to 28 U.S.C. § 1331(b). The Defendant entity is based in this district, and the events giving rise to the causes of action occurred within this district.

THE PARTIES

5. Plaintiff Iris Castillo is an individual residing in Houston, Texas.

6. Defendant HHS Environmental Services, LLC (“HHS”) is a limited liability company formed and existing under the laws of the State of Texas and whose principal place of business is 12495 Silver Creek Road, Dripping Springs, Texas 78620. Defendant HHS may be served with process by serving its registered agent, C T Corporation System, at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

FACTS

7. On or around June 27, 2019, Plaintiff was hired by Defendant to perform cleaning work for Defendant’s clients. Defendant placed Plaintiff at the West Houston Medical Center, where she worked as a patient room cleaner from approximately June 2019 to August 2020.

8. On or around July 4, 2020, Plaintiff suffered a shoulder injury in a car accident. Plaintiff initially thought she could perform her job functions despite the injury, and continued to report to work until approximately July 10, 2020. At that time she realized that her condition was not improving and that performing her job was causing unbearable pain. She informed her supervisors at HHS that she could not work because of the pain her injury caused and that she would be seeking medical attention.

9. Plaintiff began taking leave to recover from her shoulder injury on or around July 10, 2020.

10. During her leave, Plaintiff underwent regular sessions of physical therapy. During this time, she provided HHS with notes from her physical therapist regarding the dates that she expected to return to work. By the end of her medical leave, Plaintiff was scheduled to return to HHS on or around August 5, 2020.

11. On or around August 3, 2020, Plaintiff received a phone call from a supervisor at HHS, who informed her that she was being fired.

12. On or around August 4, 2020, Plaintiff visited her work site at West Houston Medical Center and spoke again with her supervisor at HHS. The supervisor explained that Plaintiff was being let go because she had taken time off on two occasions: first in March and April 2020 after contracting COVID-19, and again in July and August 2020 after suffering her shoulder injury.

CAUSE OF ACTION: FAMILY AND MEDICAL LEAVE ACT

13. Plaintiff incorporates each of the foregoing paragraphs as if fully set forth herein.

14. Plaintiff was an eligible employee as defined by 29 U.S.C. § 2611(a) because she worked for Defendant for at least 12 months and for at least 1,250 hours of service during the previous 12 month period before she first took or requested FMLA leave.

15. Plaintiff was also an “individual” (as distinct from an “eligible employee”) entitled to be free from discrimination and retaliation as set out in 29 U.S.C. § 2615(a)(2).

16. Defendant is an employer within the meaning of 29 U.S.C. § 2611(4) in that Defendant employees and has employed 50 or more employees for each working day during each of 20 or more calendar work weeks during the applicable time period, and is engaged in commerce or in an industry or activity affecting commerce.

17. Plaintiff’s shoulder injury was a “serious health condition” as defined in 29 U.S.C. § 2611(11) in that it required ongoing treatment by a physical therapist.

18. Defendant interfered with, restrained, or denied Plaintiff’s exercise or attempt to exercise her rights under the FMLA by firing Plaintiff on or about August 4, 2020, by failing to provide the notices required by the FMLA, and by failing to return her to her position or to an equivalent position, in violation of 29 U.S.C. § 2615(a)(1).

19. Defendant discriminated and/or retaliated against Plaintiff by firing Plaintiff on or about August 4, 2020 after she took leave, in violation of 29 U.S.C. § 2615(a)(1)–(2).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court:

- a. Declare Defendant in violation of the FMLA, as set forth above;
- b. Award damages to Plaintiff for Defendant's violation of the FMLA, including reinstatement, back pay, other lost compensation, and liquidated damages;
- c. Award Plaintiff the costs of this action;
- d. Award Plaintiff reasonable attorney's fees;
- e. Award Plaintiff post-judgment interest, as provided by law; and
- f. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

By: /s/ Duchoang Pham

Duchoang Pham
Texas State Bar No. 24116900
Email: dpham@equaljusticecenter.org
EQUAL JUSTICE CENTER
2925 Richmond Ave., Ste. 1231
Houston, TX 77098
Fax (512) 474-0008
Tel (832) 441-4787

Anna Bocchini
Texas State Bar No. 24057410
Email: abocchini@equaljusticecenter.org
EQUAL JUSTICE CENTER
314 E Highland Mall Blvd., Ste. 401
Austin, TX 78752
Phone: (512) 474-0007, ext. 105
Fax: (512) 474-0008

Counsel for Plaintiff